

It appearing that no quorum could be had,

On motion of Senator Tillett, the Senate adjourned to 10 a. m. to-morrow.

FORTY-FOURTH DAY.

Senate Chamber,

Austin, Tex., Wednesday, Mar. 10.

Senate met pursuant to adjournment.

President pro tem. Dibrell in the chair.

Roll called. Quorum present, the following Senators answering to their names:

Atlee.	Rogers.
Beall.	Ross.
Bowser.	Stafford.
Burns.	Stone.
Colquitt.	Terrell.
Darwin.	Tillett.
Dibrell.	Turney.
Gough.	Wayland.
Greer.	Woods.
Harrison.	Yantis.
Linn of Wharton.	Yett.
Presler.	

Absent.

Boren.	Kerr.
Goss.	Lewis.

Excused.

Bailey.	Morriss.
Linn of Victoria.	Neal.

Prayer by Rev. J. A. Jackson, Chaplain of the House of Representatives.

Pending the reading of the Journal of yesterday,

On motion of Senator Woods, the same was dispensed with.

On motion of Senator Burns,

Senator Atlee was excused for non-attendance on yesterday, on account of important business.

On motion of Senator Woods,

The Assistant Secretary, Mr. Dodson, was excused for Monday and Tuesday, on account of important business.

PETITIONS AND MEMORIALS.

By Senator Colquitt:

Protest of a large number of citizens against the passage of Senate bill No. 119. (Regulating the manufacture and sale of oleomargarine.)

Read and referred to the Committee on Public Health.

By Senator Harrison:

Petition of 125 citizens of Bell county, protesting against the passage of

Senate bill No. 119. (Regulating the manufacture and sale of oleomargarine.)

Read and referred to the Committee on Public Health.

COMMITTEE REPORTS.

Committee Room,

Austin, Texas, March 9, 1897.

Hon. George T. Jester, President of the Senate.

Your Judiciary Committee No. 1, to whom was referred

Senate bill No. 263, a bill to be entitled "An act to lease to H. P. N. Gammel of Austin, Travis county, Texas, the stereotyped plates of volumes fifty-six (56) to eighty-six (86), inclusive, of the Texas Reports, being reports of the decisions of the Supreme Court of Texas."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

DIBRELL, Acting Chairman.

Committee Room,

Austin, Texas, March 9, 1897.

Hon. George T. Jester, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred

House bill No. 213, a bill to be entitled "An act to restore and confer upon the county court of Hardin county the civil and criminal jurisdiction heretofore belonging to said court under the Constitution and General Statutes of Texas; to define the jurisdiction of said court; to conform the jurisdiction of the district court of said county to such change; to fix the time of holding court, and to repeal all laws in conflict with this act."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

DIBRELL, Acting Chairman.

Committee Room,

Austin, Texas, March 9, 1897.

Hon. George T. Jester, President of the Senate.

Your Judiciary Committee No. 1, to whom was referred

House bill No. 370, a bill to be entitled "An act to restore and confer upon the county court of Titus county the civil jurisdiction heretofore belonging to said county under the Constitution and General Laws of this State, and to conform the jurisdiction of the district court of said county to said change."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

DIBRELL, Acting Chairman.

Committee Room,
Austin, Texas, March 9, 1897.

Hon. Geo. T. Jester, President of the Senate.

Your Judiciary Committee No. 1, to whom was referred

Senate bill No. 270, a bill to be entitled "An act to restore and confer upon the county court of Jefferson county the civil and criminal jurisdiction heretofore belonging to said court under the Constitution and general statutes of the State, to conform the jurisdiction of the district court of said county to such change, and to repeal all laws in conflict with the provisions of this act in so far as it relates to Jefferson county."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

DIBRELL, Acting Chairman.

Committee Room,
Austin, Texas, March 9, 1897.

Hon. George T. Jester, President of the Senate.

Your Judiciary Committee No. 1, to whom was referred

House bill No. 513, a bill to be entitled "An act to diminish the civil and criminal jurisdiction of the county court of Marion county in this State, and conform the jurisdiction of the district court of said county to such change,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

DIBRELL, Acting Chairman.

Committee Room,
Austin, Texas, March 9, 1897.

Hon. Geo. T. Jester, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred

Senate bill No. 260, a bill to be entitled "An act to provide for the right of redemption of real estate within two years from date of sale when sold under execution, mortgage or other lien."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

DIBRELL, Acting Chairman.

Committee Room,
Austin, Texas, March 9, 1897.

Hon. George T. Jester, President of the Senate.

Your Judiciary Committee No. 1, to whom was referred

Senate bill No. 184, a bill to be entitled "An act to provide that when any prior decision or opinion of the Supreme court of this State is overruled, changed or modified by a subsequent decision or opinion of said court, all contracts, claims, rights, titles, interests and causes of action which were made or arose or accrued prior to such subsequent decision or opinion, shall not be affected thereby, but shall be governed, construed and enforced in accordance with such prior decision or opinion."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do not pass.

DIBRELL, Acting Chairman.

MAJORITY REPORT.

Committee Room,
Austin, Texas, March 9, 1897.

Hon. George T. Jester, President of the Senate.

Your Judiciary Committee No. 1, to whom was referred

Senate bill No. 139, a bill to be entitled "An act to amend title XXX, chapter 4, article 1194, of the Revised Statutes of the State of Texas of 1895, relating to venue of suits in cases of personal injury against a railroad corporation, or against any assignee, trustee or receiver operating said railway, by adding thereto section 23a after section 23."

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass.

DIBRELL, Acting Chairman.

MINORITY REPORT.

Committee Room,
Austin, Texas, March 9, 1897.

Hon. George T. Jester, President of the Senate:

A minority of your Judiciary Committee No. 1 beg leave to dissent from the report of the majority on

Senate bill No. 139, a bill to be entitled "An act to amend title 30, chapter 4, article 1194, of the Revised Civil Statutes of the State of Texas of 1895, relating to venue of suits in cases of personal injury against a railroad corporation, or against any assignee, trustee or receiver operating said rail-

way, by adding thereto section 23a after section 23."

Have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass.

DIBRELL, Acting Chairman.

MINORITY REPORT.

Committee Room,

Austin, Texas, March 9, 1897.

Hon. George T. Jester, President of the Senate:

A minority of your Judiciary Committee No. 1 beg leave to dissent from the report of the majority on

Senate bill No. 139, a bill to be entitled "An act to amend title 30, chapter 4, article 1194, of the Revised Civil Statutes of the State of Texas of 1895, relating to venue of suits in cases of personal injury against a railroad corporation, or against any assignee, trustee or receiver operating said railway, by adding thereto section 23a after section 23,"

And in lieu of said report recommend that the same do not pass.

YANTIS.

Committee Room,

Austin, Texas, March 9, 1897.

Hon. Geo. T. Jester, President of the Senate.

Your Committee on Finance, to whom was referred

Senate bill No. 261, a bill to be entitled "An act to transfer to the general revenue account the unexpended balance of the United States direct tax fund remaining in the State treasury on the 3rd day of March, 1897, the same to be used in the payment of the current expenses of the State government, and to authorize the Comptroller to pay all valid claims for direct tax, penalty, interest and cost of this fund transferring the fund referred to in heretofore filed, or that may be filed and approved by March 3, 1899."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do not pass, for the reason that Senate bill No. 100, transferring the fund referred to in Senate bill No. 261, to the available University fund, has passed.

STONE, Chairman.

Committee Room,

Austin, Texas, March 9, 1897.

Hon. Geo. T. Jester, President of the Senate.

Your Committee on Finance, to whom was referred

Senate bill No. 275, a bill to be enti-

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itled "An act to amend subdivision 8, of article 1083, of the Code of Criminal Procedure of the State of Texas, relating to fees in certain cases."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

STONE, Chairman.

Committee Room,

Austin, Texas, March 9, 1897.

Hon. Geo. T. Jester, President of the Senate:

Your Committee on Finance, to whom was referred

House bill No. 7, a bill to be entitled "An act to prevent the payment of any deficiency that may arise in any department of State government or institution of this State unless an estimate of the same shall have been made out, sworn to and presented to and approved by the Governor, and filed with the Comptroller at least 30 days before such deficiency occurs."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

STONE, Chairman.

Committee Room,

Austin, Texas, March 9, 1897.

Hon. Geo. T. Jester, President of the Senate:

Your Committee on Finance, to whom was referred

House bill No. 394, a bill to be entitled "An act to amend article 867 of chapter 1, title XXV, of the Revised Civil Statutes of the State of Texas, relating to county finances."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

STONE, Chairman.

Committee Room,

Austin, Texas, March 9, 1897.

Hon. George T. Jester, President of the Senate:

Your Committee on Finance, to whom was referred

House bill No. 402, a bill to be entitled "An act to authorize the Comptroller of Public Accounts and the State Treasurer to transfer the sum of \$20,000 from organized county tax fund account to State revenue account."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

STONE, Chairman.

Committee Room,

Austin, Texas, March 10, 1897.

Hon. George T. Jester, President of the Senate, and Hon. L. T. Dashiell, Speaker of the House of Representatives:

We, your conference committee on Senate bill No. 52, a bill to be entitled "An act to require every express company to keep a general office in this State, and to furnish such information in relation to its property, indebtedness and business as may be required by the Railroad Commission of Texas,"

Have had the House amendments to said Senate bill No. 52 under consideration, and recommend:

First. That the Senate concur in House amendments Nos. 1, 2, 3, 5 and 6.

Second. That the House recede from its amendment No. 4.

Respectfully submitted,

COLQUITT,
BURNS,
WOODS,
BEALL,
TERRELL,

On part of the Senate.

WILLIAMS,
LOGAN,
LILLARD,
HENSLEY,

On part of the House.

On motion of Senator Colquitt, the above report was adopted.

BILLS AND RESOLUTIONS.

By Senator Linn of Wharton:

Senate bill No. 278, a bill to be entitled "An act to establish an additional State normal school."

Read first time and referred to Committee on Education.

By Senator Wayland:

Senate bill No. 279, a bill to be entitled "An act to amend that portion of chapter 1, title 9, of the Revised Civil Statutes of the State of Texas, that relates to the judicial proceedings in cases of lunacy."

Read first time and referred to Committee on State Asylums.

By Senator Tillett:

Senate bill No. 280, a bill to be entitled "An act to authorize the Commissioner of the General Land Office to exchange school lands in certain cases for other lands, and providing the terms and conditions of such exchange."

Read first time and referred to Committee on Public Lands and Land Office.

By Senator Stafford:

Whereas, the Hon. Wiley Mangum Imboden, an honored ex-member of this body, who distinguished himself by his mastery of parliamentary law and his earnest support of the hog bill, is in the city; therefore be it

Resolved, that he be extended the privileges and courtesies of the Senate.

Unanimously adopted, and Senator Stafford appointed to escort the honorable gentleman to a seat with the President.

Call concluded.

HOUSE MESSAGES.

The following House messages were received:

Hall House of Representatives,
Austin, Texas, March 10, 1897.

Hon. George T. Jester, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has adopted the report of the Conference Committee on Senate bill No. 52.

Respectfully,

LEE J. ROUNTREE, Chief Clerk.

Hall House of Representatives,
Austin, Texas, March 10, 1897.

Hon. Geo. T. Jester, President of the Senate:

I am directed by the House to inform the Senate of the passage of the following bill:

Senate bill No. 82, a bill to be entitled "An act to amend article 256 of the Revised Civil Statutes of Texas, relating to applications for license to practice law."

Respectfully,

LEE J. ROUNTREE, Chief Clerk.

BILLS ON THIRD READING.

The Chair laid before the Senate, House bill No. 82, a bill to be entitled "An act to amend article 878 of title 17, chapter 9, of the Penal Code of the State of Texas, and to make the receiving or concealing of stolen property a criminal offense, and to provide appropriate penalties for said offense, and to repeal all laws and parts of laws in conflict with the provisions of this act."

Action being on final passage.

On motion of Senator Colquitt, further consideration of the bill was postponed till Wednesday, March 17, 1897.

The Chair laid before the Senate, House bill No. 281, a bill to be entitled "An act to repeal article 2923,

chapter 6, title 52, of the Revised Civil Statutes of the State of Texas,"

Action being on final passage.

On motion of Senator Colquitt, the bill was laid on the table subject to call.

BILLS ON SECOND READING.

The Chair laid before the Senate, House bill No. 115, a bill to be entitled "An act to amend articles 744a and 744b of the Revised Civil Statutes of Texas of 1895, relating to corporations for the construction of union depots."

Bill read second time.

By Senator Colquitt:

Amend by inserting the word "as" after the word "for," in line 9, page 2. Adopted.

Bill passed to third reading.

On motion of Senator Linn of Wharton, the constitutional rule requiring bill to be read on three several days was suspended, and the bill put upon its third reading and final passage by the following vote:

Yeas—22.

Atlee.	Presler.
Beall.	Rogers.
Bowser.	Ross.
Burns.	Stafford.
Colquitt.	Terrell.
Darwin.	Tillett.
Dibrell.	Turney.
Gough.	Wayland.
Greer.	Woods.
Harrison.	Yantis.
Linn of Wharton.	Yett.

Nays—none.

Absent.

Boren.	Lewis.
Goss.	Stone.
Kerr.	

Excused.

Bailey.	Morriss.
Linn of Victoria.	Neal.

Bill read third time.

By Senator Terrell:

Amend by adding after the word "purposes," in line 2, page 2, the following, "not foreign to the purposes for which such corporations are formed."

Lost by the following vote:

Yeas—4.

Atlee.	Darwin.
Colquitt.	Terrell.

Nays—17.

Beall.	Gough.
Bowser.	Greer.
Burns.	Harrison.

Linn of Wharton.	Turney.
Presler.	Wayland.
Rogers.	Woods.
Ross.	Yantis.
Stafford.	Yett.
Tillett.	

Absent.

Boren.	Kerr.
Dibrell.	Lewis.
Goss.	Stone.

Excused.

Bailey.	Morriss.
Linn of Victoria.	Neal.

The bill was then passed by the following vote:

Yeas—22.

Atlee.	Presler.
Beall.	Rogers.
Bowser.	Ross.
Burns.	Stafford.
Colquitt.	Terrell.
Darwin.	Tillett.
Dibrell.	Turney.
Gough.	Wayland.
Greer.	Woods.
Harrison.	Yantis.
Linn of Wharton.	Yett.

Nays—none.

Absent.

Boren.	Lewis.
Goss.	Stone.
Kerr.	

Excused.

Bailey.	Morriss.
Linn of Victoria.	Neal.

The Chair laid before the Senate,

House bill No. 25, a bill to be entitled "An act to create a judicial district in Harris county, additional to the Eleventh Judicial District existing therein, to be the Fifty-fifth Judicial District, to establish a court and provide for a judge and clerk of such new district, and to regulate the venue of the courts of said respective districts and the disposition of business therein, and to define the jurisdictional boundaries and terms thereof."

Bill read second time, and passed to third reading.

On motion of Senator Burns, the constitutional rule requiring bills to be read on three several days was suspended, and the bill put upon its third reading and final passage by the following vote:

Yeas—22.

Atlee.	Darwin.
Beall.	Dibrell.
Bowser.	Gough.
Burns.	Greer.
Colquitt.	Harrison.

Linn of Wharton. Tillett.
 Presler. Turney.
 Rogers. Wayland.
 Ross. Woods.
 Stafford. Yantis.
 Terrell. Yett.

Nays—none.

Absent.

Boren. Lewis.
 Goss. Stone.
 Kerr.

Excused.

Bailey. Morriss.
 Linn of Victoria. Neal.

Bill read third time and passed.

On motion of Senator Rogers, the regular order of business was suspended to take up, on its second reading,

House bill No. 513, a bill to be entitled "An act to diminish the civil and criminal jurisdiction of the county court of Marion county, in this State, and conform the jurisdiction of the district court of said county to such change."

Bill read second time.

On motion of Senator Rogers, the constitutional rule requiring bills to be read on three several days was suspended, and the bill put upon its third reading and final passage by the following vote:

Yeas—22.

Atlee. Presler.
 Beall. Rogers.
 Bowser. Ross.
 Burns. Stafford.
 Colquitt. Terrell.
 Darwin. Tillett.
 Dibrell. Turney.
 Gough. Wayland.
 Greer. Woods.
 Harrison. Yantis.
 Linn of Wharton. Yett.

Nays—none.

Absent.

Boren. Lewis.
 Goss. Stone.
 Kerr.

Excused.

Bailey. Morriss.
 Linn of Victoria. Neal.

Bill read third time, and passed by the following vote:

Yeas—22.

Atlee. Dibrell.
 Beall. Gough.
 Bowser. Greer.
 Burns. Harrison.
 Colquitt. Linn of Wharton.
 Darwin. Presler.

Rogers. Turney.
 Ross. Wayland.
 Stafford. Woods.
 Terrell. Yantis.
 Tillett. Yett.

Nays—none.

Absent.

Boren. Lewis.
 Goss. Stone.
 Kerr.

Excused.

Bailey. Morriss.
 Linn of Victoria. Neal.

(Senator Colquitt in the chair.)

The Chair laid before the Senate,

House bill No. 107, a bill to be entitled "An act to define cold storage in local option counties, precincts, cities, towns or subdivisions of a county, and to affix penalties for keeping same."

On motion of Senator Ross, further consideration of the bill was postponed until to-morrow.

The Chair laid before the Senate,

House concurrent resolution empowering the Governor of Texas to call a cotton growers' convention, inviting delegates from all cotton growing States.

Resolution read.

By Senator Gough:

Amend by striking out "Galveston" and insert in lieu thereof "Dallas."

Lost.

By Senator Greer:

Amend by striking out from "whereas," in line 14, page 1, to the words "be it," on page 2, line 31.

Lost by the following vote:

Yeas—8.

Atlee. Greer.
 Beall. Stafford.
 Bowser. Tillett.
 Dibrell. Turney.

Nays—14.

Burns. Ross.
 Colquitt. Stone.
 Darwin. Terrell.
 Gough. Wayland.
 Harrison. Woods.
 Presler. Yantis.
 Rogers. Yett.

Absent.

Boren. Lewis.
 Goss. Linn of Wharton.
 Kerr.

Excused.

Bailey. Morriss.
 Linn of Victoria. Neal.

By Senator Yantis:

Amend by striking out the word "Galveston" and insert "Waco."

Lost.

The resolution was then adopted.

Senator Presler moved to recommit to Committee on Education,

House bill No. 262, a bill to be entitled "An act to amend article 3973 of the Revised Civil Statutes of the State of Texas, by adding thereto article 3973e, providing for the issuance of permanent certificates to teachers who have taught five years successfully and continuously in one of the public free schools of this State; said certificate to be good for the county of its issuance."

Lost by the following vote:

Yeas—10.

Bowser.	Presler.
Darwin.	Ross.
Dibrell.	Stone.
Harrison.	Wayland.
Linn of Wharton.	Yett.

Nays—11.

Atlee.	Terrell.
Beall.	Tillett.
Colquitt.	Turney.
Greer.	Woods.
Rogers.	Yantis.
Stafford.	

Absent.

Boren.	Gough.
Burns.	Kerr.
Goss.	Lewis.

Excused.

Bailey.	Linn of Victoria.
Morriss.	Neal.

The Chair laid before the Senate,

House bill No. 85, a bill to be entitled "An act to grant relief to certain teachers who taught during the school year of 1895-96 in Greer county, which was then considered a portion of Texas, but has since been made a part of the Territory of Oklahoma."

Bill read second time, and passed to third reading.

On motion of Senator Presler, the constitutional rule requiring bills to be read on three several days was suspended, and the bill put upon its third reading and final passage by the following vote:

Yeas—23.

Atlee.	Linn of Wharton.
Beall.	Presler.
Bowser.	Rogers.
Burns.	Ross.
Colquitt.	Stafford.
Darwin.	Stone.
Dibrell.	Terrell.
Gough.	Tillett.
Greer.	Turney.
Harrison.	Wayland.

Woods.
Yantis.

Yett.

Nays—none.

Absent.

Boren.	Kerr.
Goss.	Lewis.

Excused.

Bailey.	Linn of Victoria.
Morriss.	Neal.

Bill read third time, and passed by the following vote:

Yeas—23.

Atlee.	Rogers.
Beall.	Ross.
Bowser.	Stafford.
Burns.	Stone.
Colquitt.	Terrell.
Darwin.	Tillett.
Dibrell.	Turney.
Gough.	Wayland.
Greer.	Woods.
Harrison.	Yantis.
Linn of Wharton.	Yett.
Presler.	

Nays—none.

Absent.

Boren.	Kerr.
Goss.	Lewis.

Excused.

Bailey.	Linn of Victoria.
Morriss.	Neal.

Senator Presler moved to reconsider the vote by which the bill passed, and to lay that motion on the table.

Tabled.

Senator Presler called up

House bill No. 8, a bill to be entitled "An act to amend chapter 6, article 400, of the Penal Code of the Revised Statutes of the State of Texas, relating to selling intoxicating liquors to minors."

And moved to table the motion (Dibrell's) to reconsider the vote by which same was passed to third reading.

Tabled.

Bill read third time, and passed by the following vote:

Yeas—15.

Beall.	Presler.
Bowser.	Rogers.
Darwin.	Tillett.
Gough.	Woods.
Greer.	Yantis.
Harrison.	Yett.

Nays—9.

Atlee.	Dibrell.
Burns.	Linn of Wharton.
Colquitt.	Ross.

Terrell.
Turney.

Wayland.

Absent.

Boren.
Goss.
Kerr.

Lewis.
Stafford.
Stone.

Excused.

Bailey.
Morriess.

Linn of Victoria.
Neal.

On motion of Senator Greer, the regular order of business was suspended, to take up, on its second reading,

Senate bill No. 237, a bill to be entitled "An act to amend article 812, of chapter 5, of the Revised Civil Statutes of the State of Texas of 1895."

Bill read second time.

By Senator Greer:

Amend by adding to the caption, on page 1, line 8, after the figures "1895" the following, "relating to the removal of county seats."

Adopted.

(President pro tem. Dibrell in the chair.)

By Senator Turney:

Amend after the word "any," in line 31, the word "unmatured."

Adopted.

On motion of Senator Harrison, the bill was laid on the table subject to call.

On motion of Senator Darwin, House bill No. 370 (see committee report today) was recommitted to Judiciary Committee No. 1.

On motion of Senator Tillett, the regular order of business was suspended, to take up on its third reading,

Senate bill No. 251, a bill to be entitled "An act to prohibit in certain cases the gathering of pecan nuts, and the cutting, injuring or destroying of pecan trees, and prescribing penalties therefor."

Bill read third time and passed.

On motion of Senator Bowser, Senate bill No. 162 (see above) was taken up and laid on the table subject to call.

The following committee reports were sent up:

Committee Room.

Austin, Texas, March 10, 1897.

Hon. Geo. T. Jester, President of the Senate:

Your Committee on State Asylums, to whom was referred

Senate bill No. 279, a bill to be entitled "An act to amend that portion of chapter 1, title 9, of the Revised Civil Statutes of the State of Texas that relates to judicial proceedings in cases of lunacy,"

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

GOUGH, Chairman.

Committee Room,

Austin, Texas, March 9, 1897.

Hon. L. T. Dashiell, Speaker of the House, and Hon. George T. Jester, President of the Senate:

We, your conference committee on House bill No. 65, a bill to be entitled "An act to define and punish the offense of wilfully or maliciously throwing missiles or firing guns or other firearms at or into moving trains on railroads or any railway depot, private residence, school house, church, storehouse, hotel or other public or private building, sailboat or steamboat in this State."

Have had the Senate amendments thereto under consideration, and report with the following recommendations:

First. That the Senate recede from its first, second and fourth amendments.

Second. That the House concur in the third Senate amendment.

Third. That the Senate recede from so much of its fifth amendment as is included down to and including the word "buggy" in said amendment, and that the House concur in the remainder of said fifth amendment.

GOUGH,
STAFFORD,
COLQUITT,
TERRELL;
DARWIN,

On part of Senate.

BAILEY,
TURNER,
REUBELL,
LOVE,
MEADE,

On part of the House.

On motion of Senator Gough, the above report was adopted.

Committee Room,

Austin, Texas, March 10, 1897.

Hon. Geo. T. Jester, President of the Senate:

Your Committee on Enrolled Bills have carefully examined and compared

Senate bill No. 82, a bill to be entitled "An act to amend article 256, of the Revised Civil Statutes of Texas, relating to applications for license to practice law."

And find the same correctly enrolled, and have this day, at 12.40 p. m., pre-

presented the same to the Governor for his approval.

ROGERS, Chairman.

The Chair gave notice of signing, and did sign in the presence of the Senate, after its caption had been read,

Senate bill No. 82, a bill to be entitled "An act to amend article 256 of the Revised Civil Statutes of Texas, relating to applications for license to practice law."

On motion of Senator Atlee, the Senate adjourned to 3 o'clock p. m.

AFTERNOON SESSION.

The Senate met pursuant to adjournment.

(President pro tem. Dibrell in the chair.)

Roll called.

Quorum present, the following Senators answering to their names:

Atlee.	Ross.
Beall.	Stafford.
Bowser.	Stone.
Burns.	Terrell.
Colquitt.	Tillett.
Darwin.	Turney.
Dibrell.	Wayland.
Gough.	Woods.
Greer.	Yantis.
Harrison.	Yett.
Rogers.	

Absent.

Boren.	Linn of Wharton.
Goss.	Presler.
Kerr.	

Excused.

Bailey.	Morriss.
Lewis.	Neal.
Linn of Victoria.	

On motion of Senator Woods, the regular order of business was suspended to take up, on its third reading,

Senate bill No. 171, a bill to be entitled "An act to amend article 3582a, title LXXVa, of the Revised Civil Statutes, in regard to the Board of Pardon Advisers."

The bill was read third time, and passed.

Senator Woods moved to reconsider the vote by which the bill passed, and to lay that motion on the table.

Tabled.

On motion of Senator Turney, the regular order of business was suspended, to take up on its second reading,

Senate bill No. 87, a bill to be entitled "An act to amend an act of the regular session of the Twenty-third

Legislature, entitled an act to provide for the protection of domestic animals, for the creation of a live stock sanitary commission, rules and regulations, to provide penalties for violating the same, and to make an appropriation to carry out the provisions of this act, approved April 20, A. D. 1893."

Bill read second time, and ordered engrossed.

Senator Bowser called up from the table,

Senate bill No. 162, a bill to be entitled "An act granting permission to M. T. and M. C. Chapman, or their assigns, to bring suit against the State of Texas in the district court of Kaufman county, to ascertain the amount, if any, the State is indebted to said M. T. and M. C. Chapman, or their assigns, on account of the sinking of an artesian well for the State at the North Texas Insane Asylum, at Terrell, Texas,"

Action being on the following amendment:

By Senator Terrell:

Amend by striking out all of section 1, after the word "Terrell," in line 17, and insert the following: "Provided, that they shall give a good and sufficient bond in the sum of \$7000, due and payable to the State of Texas, conditioned that they will pay all such damages and costs as may be awarded against them on a plea in reconvention."

By Senator Terrell:

Amend the amendment by striking out \$7000 and inserting \$2000.

Adopted.

(Senator Turney in the chair.)

By Senator Tillett:

Amend section 2 so as to read as follows:

"Sec. 2. Either party shall have the right of appeal, and any judgment finally established against either party shall be a liquidated debt which shall be paid by the party against whom final judgment is obtained."

Adopted.

Bill as amended ordered engrossed.

Senator Colquitt requested to be recorded as voting nay on the engrossment of the bill, and filed the following reasons for his vote:

Mr. President: I vote "no" on the engrossment of this bill, being Senate bill No. 162, authorizing M. T. and M. C. Chapman of Aurora, Illinois, to bring suit against the State for an unpaid balance claimed by them for sinking an artesian well at the North Texas Insane Asylum, Terrell, Texas. I attach

hereto copy of proposition marked Exhibit A, under which the work was done, and copy of Attorney General Chas. A. Culberson's letter to the Board of Managers advising the non-payment of the 25 per cent held back under the proposition, which letter is marked Exhibit B.

Exhibit A.
(Copy.)

Terrell, Texas, October —, 1889.

To the Board of Managers of the North Texas Insane Asylum, Terrell, Texas:

Gentlemen—This is a proposition made by M. T. and M. C. Chapman, of Aurora, Illinois, to sink one or more artesian wells for the State of Texas, at the asylum in Terrell, Texas, and for convenience in this instrument M. T. and M. C. Chapman shall be known as parties to the first part.

The Board of Managers for the North Texas Insane Asylum represent the State of Texas, and shall be known as parties to the second part in this instrument.

First party agrees to sink one or more artesian wells to supply the aforementioned asylum with a water supply of (100,000) one hundred thousand gallons of water per day of (24) twenty-four hours, by boring a (12) twelve inch hole and place therein a (9) nine inch pipe, weighing 33.7 pounds to the foot, said pipe to be sunk down as far as deemed advisable. Then other wrought iron pipe of corresponding material shall be sunk therein to the depth of (2500) twenty-five hundred feet, unless water is found in sufficient quantity at less depth, when work shall cease, or second party orders the work stopped before that depth is reached. First party does all work connected with the sinking of the wells, furnish all pipes for the said wells, which shall be of good, first-class material, of steel or wrought iron, and shall furnish all filters, well paints and strainers required, covered with brass, also all the machinery for "dowing" the work, use due care in opening all water-bearing stratas, by their patent hydraulic processes, and guarantee one hundred thousand gallons of water per day of (24) twenty-four hours. Quality of water or its flow over the top of the well is not guaranteed. First party shall keep a record of all water-bearing stratas, and utilize them if a sufficient flow is not found at one "plase" within the 2500 feet bored. Second party shall furnish steam, water, board and lodg-

ing for the workmen, which will not exceed four men, material for the derrick (lumber) approximately six thousand feet, steam and water pipes, two kegs of nails, and second party shall pay first party five dollars per foot for the first one hundred feet, and five dollars and fifty cents per foot for the second one hundred feet and add fifty cents per foot to the price for each additional one hundred feet sunk. Thus for example: First 100 feet \$5 per foot; second 100 feet, \$5.50 per foot; third 100 feet, \$6 per foot; fourth 100 feet, \$6.50 per foot. And so on in the same ratio for the additional feet sunk.

Seventy-five per cent shall be paid to first party of the amount earned monthly; 25 per cent shall be retained by second party as a guarantee that the promises and agreements of first party shall be fulfilled, and at the completion of the work, or if the work be ordered stopped by second party, the balance unpaid amount shall be paid to first party. First party warrants all work to be done in a thorough and workmanlike manner. The material furnished to be first-class and fully suitable for purposes required. It is agreed that second party shall pay for a depth of four hundred feet if water is found at a less depth in sufficient quantity. The "sise" of pipe used shall be 9-inch at first, inside of that shall be a 7-inch pipe, inserted inside of that a 5-inch pipe, and inside of that a 3½-inch pipe shall be used, and inside of the 3½-inch pipe shall be inserted a 2½-inch pipe; the different pipe used shall be known as standard weights, thus: A 9-inch pipe weighs 33 pounds to the foot; a 7-inch pipe weighs 23.37 pounds to the foot.

It is understood that the "sises" of the pipe mentioned are "sises" that can be used, but the smaller "sises" shall not be used unless it becomes necessary to prevent the covering of the banks of the well. Should the work be ordered stopped by parties of the second part before same shall have been completed, because of any fault or failure on part of parties of first part to comply with their part of this contract, then and in that case, said parties of the first part agree to forfeit 25 per cent held back as aforesaid. The work on aforesaid well shall begin within thirty days from this date, and shall be prosecuted with due diligence until finished. The parties of the first part agree to execute bond in sum of two thousand dollars to secure the parties of second part.

in the faithful performance of this contract.

Witness our hands, this October 12, 1889.

M. T. & M. C. CHAPMAN,
By M. T. Chapman.

The State of Texas and the Board of Managers of the North Texas Insane Asylum hereby accept said proposition, set forth and agree to pay said M. T. Chapman and M. C. Chapman the price named in the manner, times and sums stated upon the conditions stated in said proposition. This October 12, 1889. By advise of the Board. J. S. GRINNAN,

President Board of Managers North Texas Insane Asylum.

Exhibit B.
(Copy.)

Attorney-General's Office,
Austin, Texas, April 12, 1893.

Messrs. O. B. Colquitt, S. E. Waskom, J. B. Porter, B. H. Scott and J. E. Dillard, Board of Managers, Terrell, Texas.

Gentlemen: Your letter of the 7th instant was duly received and has been carefully considered. In this letter you state that "Chapman Bros. have sunk wells on the Asylum grounds to a depth of 2500 feet, but no flow of water over the top was secured, but they have put in a pump, which, by the appliance of steam, will pump over 100,000 gallons of water per day of 24 hours, according to test made," and you inquire substantially whether this is a compliance with the terms of what purports to be a contract dated October 12, 1889, between Chapman Bros. and the Board of Managers of the Terrell Asylum, of which J. S. Grinnan was president.

By this alleged contract, Chapman Bros. obligated themselves to "sink one or more artesian wells" to supply the Asylum with 100,000 gallons of water per day; that said well shall be sunk to a depth of 2500 feet unless water is found in sufficient quantity at less depth, and that they shall "keep a record of all water bearing strata and utilize them if a sufficient flow is not found at one place within the 2500 feet bored."

Generally speaking, an artesian well is defined to be "a well from which water rushes from internal pressure and flows spontaneously." While there may be exceptions to this general rule, they are without application in this case because it is specifically provided, as shown from the extract of the contract above quoted, that there shall be

a flow of water, thus unmistakably evidencing that the parties contemplated an artesian well from which the water should flow from internal pressure. In truth, reading the contract broadly and in its entirety, in connection with the surrounding circumstances, it is not susceptible of any other intelligent or reasonable interpretation. But it is insisted by the contractors that inasmuch as the contract provides that the "quality of the water or its flow over the top of the well is not guaranteed," they have complied with the contract when they sink a well from which 100,000 gallons of water may be pumped by steam per day, although none of it flows spontaneously over the top. As has been seen, the evident purpose of the parties in entering into the contract was to secure an artesian well with a flow of water. If the provision last quoted be given its apparent literal meaning, the chief aim of the contract will be thwarted, and under well settled rules of law this is not permissible.

Bishop, Contract, Enlarged Edition, section 387.

It may be that this isolated sentence in the contract, as to the flow of water, is so obviously repugnant to its main purpose that it may properly be totally rejected, but whatever may be thought of this suggestion it is certain that with due regard for the rights of the parties and the enforcement of the contract in such manner that its real purpose will be attained, the construction contended for by the contractors can not be adopted. If the clause of the contract under consideration be not wholly disregarded, it would be unjust and destructive of the manifest intention of the parties to go beyond holding that while a flow of water above the top of the well is required, the contractors do not guarantee a flow of 100,000 gallons per day by internal pressure alone.

The same conclusion follows from another view of the matter. The contract, if ever lawfully entered into, is a peculiarly improvident one for the State. Probably a more costly well was never sunk. The price agreed to be paid appears to be singularly extravagant and exorbitant. The aggregate sum for the well is \$27,500, and if there be added the cost to the State of providing steam, water, board and lodging for four men for nearly four years, lumber, pipes and other material provided for in the contract, the total cost will easily reach \$30,000, and probably exceed that sum. No

rule of construction is better settled than that "interpretation will lean to the rendering which will make the contract reasonable and just" (Bishop, Contr., sec. 400), and it would be unjust and unreasonable to hold that in addition to paying the extravagant price named, and performing the other conditions imposed, the State should bear the continuing expense of maintaining the necessary steam pumping machinery and submit to the delay, inconvenience and inefficiency inherent in this method of forcing the water to the surface.

The contract, moreover, is to an unusual extent vague, indefinite and in some instances contradictory. Its meaning is not clear, but it is believed the intent of the parties is best reached by the construction herein indicated.

For the reasons stated, I am of the opinion that the money claimed to be due the contractors should not be paid.

Very respectfully,
(Signed) C. A. CULBERSON,
Attorney-General.

The well in question has cost the State a fabulous sum, and to authorize the State to be sued will put witnesses and the State to expense. The money paid out for the well already amounts to \$23,000 in round figures. Besides this, four or more men were boarded and lodged, and their laundry work done by the State for four years, which, if charged for at \$20 per month, that being the sum charged for the care of private patients, and the cost of steam furnished, the lumber and piping, fixes the cost to the State already on account of this well something like \$35,000, and if the 25 per cent they ask the privilege of suing for is given them, the cost of the well to the State will approximate \$42,000, and an equal supply of water could have been secured for less than \$500.

COLQUITT,
TERRELL.

On motion of Senator Darwin, the regular order of business was suspended to take up on its second reading,

Senate bill No. 246, a bill to be entitled "An act to validate the incorporation of cities or towns of one thousand inhabitants or over, incorporated since March 30, 1895, which have heretofore attempted to be made under certain conditions."

Bill read second time, and ordered engrossed.

On motion of Senator Dibrell, the regular order of business was suspended to take up, on its second reading,

Senate bill No. 73, a bill to be entitled "An act to provide for preliminary hearings in trials of trespass to try title to real estate; for a more speedy settlement of land titles in this State; and to repeal all laws and parts of laws in conflict with the provisions of this act."

Bill read second time.

By Senator Tillett:

Amend by adding to line 14, page 1, the following: "Actual, visible, continuous, exclusive."

Adopted.

By Senator Greer:

Amend by striking out "ten," line 18, and insert "fifteen."

Adopted.

By Senator Greer:

Amend by adding after "hearing," in line 32, page 1: "Provided, that persons having a cause of action for land may sue for the same within one year from the time this law goes into effect, and shall not be affected by the provisions of this act; and provided further, that this act is not intended to repeal the ten years statute of limitation."

By Senator Beall:

Substitute the amendment as follows:

Amend by adding to section 1. the following: "Provided, that limitation shall not begin to run against minors, persons of unsound mind, and persons imprisoned, until one year after this act shall go into effect, and they shall have ten years thereafter before limitation shall be complete against them; and provided further, that this act shall in no way affect suits that are now or may be pending when the same takes effect, and all such suits shall be tried and disposed of under the law now in force."

Adopted.

The amendment as substituted was then adopted.

Senator Dibrell moved to reconsider the vote by which the amendment offered by Senator Greer (see above) was adopted.

Reconsidered, and

Pending action, the following committee reports were made:

COMMITTEE REPORTS.

Committee Room,

Austin, Texas, March 10, 1897.

Hon. Geo. T. Jester, President of the Senate:

Your Committee on Education, to whom was referred

House bill No. 396, a bill to be entitled "An act to amend article 616a,

of the Revised Statutes of the State of Texas of 1895, relating to the formation of independent school districts, and prohibiting towns within such districts from assuming control of the schools therein while the independent district exists."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, and that the bill be not printed.

BEALL, Acting Chairman.

Committee Room,
Austin, Texas, March 9, 1897.

Hon. George T. Jester, President of the Senate.

Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 240, a bill to be entitled "An act to amend an act entitled 'An act to provide for the collection of taxes heretofore and that may hereafter be levied, making such taxes a lien on the lands taxed, establishing and continuing such lien, providing for the sale and conveyance of lands delinquent for taxes since January 1, 1895, which may have been returned delinquent or reported sold to the State, or to any county, city or town to satisfy the lien thereon; as enacted by the regular session of the Twenty-fourth Legislature, being chapter 5a, of title CIV, of the Revised Civil Statutes of 1895, relating to delinquent taxes, and to repeal all laws in conflict with this act."

And find the same correctly engrossed.

GOUGH, Chairman.

HOUSE MESSAGE.

The following House message was received:

Hall House of Representatives,
Austin, Texas, March 10, 1897.

Hon. George T. Jester, President of the Senate.

I am directed by the House to inform the Senate of the passage of the following resolution:

Whereas, the Hon. Norman G. Kittrell has been invited and kindly consented to address the House of Representatives on the subject of the "South's Battle Abbey;" and

Whereas, Saturday evening next at 8 o'clock has been set apart for that purpose; therefore be it

Resolved, that a most cordial invitation to be present is hereby extended to the Senate, to the Governor and

State officials, and to all others interested in a cause so dear to the Southern heart.

Respectfully,

LEE J. ROUNTREE, Chief Clerk.

On motion of Senator Atlee, the Senate adjourned to 10 a. m. to-morrow.

FORTY-FIFTH DAY.

Senate Chamber,

Austin, Tex., Thursday, Mar. 11.

Senate met pursuant to adjournment.

Lieutenant-Governor Jester in the chair.

Roll called. Quorum present, the following Senators answering to their names:

Atlee.	Linn of Victoria.
Bailey.	Linn of Wharton.
Beall.	Presler.
Bowser.	Rogers.
Burns.	Ross.
Colquitt.	Stone.
Darwin.	Terrell.
Dibrell.	Tillett.
Goss.	Turney.
Gough.	Wayland.
Greer.	Woods.
Harrison.	Yantis.
Kerr.	Yett.
Lewis.	

Absent.

Boren. Stafford.

Neal.

Excused.

Morriss.

Prayer by Rev. Jackson, Chaplain of the House of Representatives.

Pending the reading of the Journal of yesterday,

On motion of Senator Kerr, the same was dispensed with.

On motion of Senator Dibrell, the Chaplain was excused for non-attendance upon the Senate for yesterday and to-day, on account of sickness.

BILLS AND RESOLUTIONS.

By Senator Bowser (by request):

Senate bill No. 281, a bill to be entitled "An act to authorize towns and villages incorporated under the provisions of chapter 11, title 18, of the Revised Civil Statutes, to condemn the right of way over and across the road bed and right of way of any railway company, within the limits of such town or village, when deemed necessary by such town or village for the purpose of opening, widening or extending the public streets of such